

# CURRENCIES

NEWS FROM TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECOND QUARTER, 2005

from  
the commissioner

## Registration Successful

With a new mortgage law in effect, mortgage companies spent the first quarter of 2005 registering loan originators. The deadline for registration was March 31. As of this date, more than 10,000 loan originators registered.

The Department appreciates the mortgage industry's responsiveness in ensuring that loan originators registered on a timely basis. Overall, the registration proved to be a relatively smooth process.

For additional information regarding registration, please see the article on page 3.



COMMISSIONER  
KEVIN P. LAVENDER

## TENNESSEE BANKER NAMED ICBA CHAIRMAN

The Independent Community Bankers of America (ICBA) selected David Hayes, President and Chief Executive Officer of Security Bank in Dyersburg, to serve as the organization's chairman.

Hayes accepted the position on March 10 at ICBA's National Convention and Techworld in San Antonio. He also serves as vice chairman and Chief Operating Officer of The Bank of Jackson, director of Patriot Bank (Millington, Covington and Collierville) and director of Gates Banking and Trust Company in Gates.

This accomplishment is just the second of its kind for a Tennessee banker. W.J. Bryan of Third National Bank served in the same position from 1954-1955.

"It is an honor to represent Tennessee bankers in such an important and visible position. All Tennesseans have a tradition of being volunteers and this is just a small way that I can live up to that tradition," Hayes said.

Commissioner Kevin P. Lavender added: "This appointment indicates the importance of our state being at the forefront of key issues that affect state-chartered banks."

In addition to his role as chairman, Hayes will continue to serve on the ICBA Service Network and Bancard Subsidiary boards.

"My vision for the ICBA is to engage more bankers throughout the country by volunteering their time and contributing money to bring the message of our core values to the halls of Congress and to regulatory agencies. If bankers don't get engaged then we can't effectively articulate and send a loud



DAVID HAYES

*David Hayes of Security Bank in Dyersburg has been selected to serve as chairman of the Independent Community Bankers of America (ICBA)*

TENNESSEE BANKER NAMED ICBA CHAIRMAN continued on page 3

# A RECAP OF STATE LAW PROVISIONS

BY SHERRI WALLACE, COMPLIANCE FINANCIAL ANALYST

Entities that are licensed to engage in the business of deferred presentment services must comply with the provisions of the Deferred Presentment Services Act. To ensure compliance, Tennessee Code Annotated § 45-17-111(b) authorizes the Commissioner to examine the relevant business, books and records of any licensee. If violations are noted during an examination, licensees must take appropriate action to correct them and provide the Department with evidence that corrective action has been taken.

- T.C.A. §45-17-112(r) states that a licensee cannot use any device or agreement, including agreements with affiliated licensees, with the intent to obtain greater charges than otherwise would be authorized by the act. Compliance examiners have often found that licensees do not accept checks for more than \$200. If a customer wants \$400 and the licensee requests that the customer write two separate checks for \$200 each rather than one check for \$400, then the licensee is in violation of the act if the licensee charges the customer a \$30 fee for both checks. Total fees charged in this case would be \$60 on a \$400 check. This is not permissible under T.C.A. §45-17-112(b), which limits the fee on a \$400 check to \$30. To correct the violation, the licensee could refund the customer \$30.
- T.C.A. §45-17-112(i) states that if a check is returned to the licensee from a payer financial institution due to insufficient funds, closed account or stop payment order, the licensee shall have the right to all civil means available and allowed by law to collect the check; provided that the provisions of title 47, chapter 29 are not applicable. The licensee cannot charge attorney's fees, interest or late fees. Contracts containing such language must be rewritten to comply with the act. If these fees are collected from the customer, violators must take corrective action by refunding the overcharges.
- T.C.A. §45-17-112(n) requires each licensee to display its license in a conspicuous location in its place of business and to post a notice containing a description of the charges (fees) imposed by the licensee. When this violation is cited, a licensee may take corrective action by simply posting the license and/or fees in the place of business in a location easily viewable by the public.
- T.C.A. §45-17-112(q) states that a licensee cannot renew or consolidate a deferred presentment transaction with the proceeds of another deferred presentment transaction made by the same licensee. This is often referred to as a "rollover," and the occurrence of such voids the contract.
- T.C.A. §45-17-112(g) states that a licensee shall provide each prospective customer before

consummation of the deferred presentment agreement, a written explanation in clear understandable language of the fees to be charged by the licensee, and the date on which the check will be deposited or presented by the licensee. Often, licensees do not disclose the correct annual percentage rate (APR) to customers. As a general rule, the APR is considered accurate if it is not more than 1/8 of 1 percentage point above or below the annual percentage rate determined in accordance with Regulation Z Truth in Lending disclosures. To correct this violation, first-time offenders are required to disclose the correct APR. If this violation is cited a second time, a licensee must refund the difference between the actual APR and the APR stated on the customer's Truth in Lending disclosure.

Please note that the violations outlined above are not all inclusive. However, if there are examination findings, these are generally typical examples. Under T.C.A. § 45-17-111(b), the Commissioner may charge and collect an examination fee of \$200 per day per examiner for any compliance examination conducted by the Commissioner. These fees are not to exceed \$1,200 per year. Upon completion of the examination, the documents are reviewed and signed by the examiner and the licensee.

# Mortgage Loan Originator Registration Deemed Successful

## More than 10,000 Loan Originators Registered

**W**ith a new mortgage law in effect, mortgage companies spent the first quarter of 2005 registering loan originators. The deadline for registration was March 31. Over 10,000 loan originators registered.

"The Department appreciates the mortgage industry's responsiveness in making sure that loan originators registered on a timely basis. Overall, the registration proved to be a relatively smooth process," said Mike Igney, Assistant Commissioner of the Compliance Division.

Although the initial deadline has passed, it is important for newly hired originators to register as soon as possible. Mortgage companies must continue to submit the standard registration form, required information on the loan originator and the \$100 fee for each employee. However, if principal or manager changes occur, the Department will only need to receive the Designation of Managing Principal and the Designation of Branch Manager forms.

"Reporting this information is absolutely vital in helping the Department enforce responsible standards for the mortgage industry," Igney said.

To that end, the Department also wants to ensure that if a mortgage loan originator is terminated, the original registration certificate will be returned to the Department within 14 business days. As T.C.A. 45-13-126(2)(f) states: "If the services of a mortgage loan originator are terminated, the licensee or registrant for whom such services have been provided shall return the original registration certificate within fourteen (14) days after the cessation of the provision of such services." The former mortgage company must notify the Department or administrative action may be taken.

Additional information regarding the new mortgage loan originator law can be found on the Department's web site at [www.tennessee.gov/financialinst](http://www.tennessee.gov/financialinst) or call the loan originator help line at: 615-741-2837.

## Governor Proclaims April as FINANCIAL LITERACY FOR YOUTH MONTH

**Governor Phil Bredesen signed a proclamation declaring April as Financial Literacy for Youth Month.**

**The proclamation outlines the need for financial education among Tennessee youth and it highlights the efforts of Tennessee Jump\$tart, a coalition for personal financial literacy.**

**To read a copy of the proclamation in its entirety, visit the Department's web site at: [www.tennessee.gov/financialinst](http://www.tennessee.gov/financialinst)**

## TENNESSEE BANKER NAMED ICBA CHAIRMAN *continued from page 1*

message to those groups. It takes bankers, state associations and a national association with a single focus on community banking to be successful in ensuring that our positions are known," Hayes said.

Based in Washington D.C., the ICBA is a trade association that is composed of nearly 5,000 members. It is dedicated exclusively to enhancing the franchise value of the nation's community banks for the benefit of customers and communities that are served.

# TDFI SPEAKS:

## PROVIDING ACCESS TO FINANCIAL EDUCATION

In recognition of Financial Literacy for Youth Month, the Consumer Resources Division has launched its speakers bureau, *TDFI Speaks*.

The bureau is designed to reinforce existing programs aimed at increasing the financial literacy of adults and youth statewide. Speakers are knowledgeable in the areas of mortgage lending, banking and savings.

"The speakers bureau is another step in the Department's vision of providing citizens access to financial literacy programs that provide practical knowledge that can be used to make informed financial decisions," said Nicole Lacey, Assistant Commissioner of the Consumer Resources Division.

### FOR MORE INFORMATION CONTACT...

Crystal Oldham,  
Consumer Education Coordinator at  
(615) 253-1084 or e-mail her at [Crystal.Oldham@state.tn.us](mailto:Crystal.Oldham@state.tn.us)

## DEPARTMENTAL BULLETIN

### Regarding Non-Bank Financial Institutions

Last February, the Department issued Bulletin B-05-1 to all state-chartered banks and savings banks regarding Non-Bank Financial Institution (NBFI) customers. The Bulletin is intended to provide Tennessee state-chartered banks and savings banks with the guidance concerning the management of account relationships with NBFI customers. To read the Bulletin in its entirety, go to [www.tennessee.gov/financialinst/B-05-1.html](http://www.tennessee.gov/financialinst/B-05-1.html). For more information, contact Tod Trulove, Assistant Commissioner of the Bank Division at (615) 741-6013 or Tina Miller, Staff Attorney at (615) 532-1030.

## TDFI tidbits

#### INDUSTRIAL LOAN AND THRIFT RENEWALS APPROACHING

The time is approaching to renew Industrial Loan & Thrift certificates of registration. Renewal forms will be mailed mid to late April and must be submitted to the Department by June 1.

#### ATTENTION CHECK CASHERS

Check cashers may go to [www.msb.gov](http://www.msb.gov) to determine if they need to register as a Money Service Business (MSB).

#### DEFERRED PRESENTMENT: FYI

Deferred Presentment (DP) companies that receive a non-sufficient funds check from a customer are entitled to civil action only NOT criminal to recover the check. They are not entitled to attorney's fees and they are not allowed to have a provision in their DP contract allowing them to collect attorney's fees either. For more information, go to T.C.A. 45-17-112(i).

#### FINANCIAL LITERACY EVENTS POSTED ON DEPARTMENT'S WEB SITE

In honor of Financial Literacy for Youth Month, the Tennessee Department of Financial Institutions is highlighting financial literacy events that are happening across the state on its web site. To view these events, go to [www.tennessee.gov/financialinst/](http://www.tennessee.gov/financialinst/).

# Community Charter Conversions Explained

BY DELYNN HANCOCK, CREDIT UNION ADMINISTRATIVE SERVICES ASSISTANT  
& PAUL FOSTER, CREDIT UNION SAFETY AND SOUNDNESS MANAGER

State-chartered credit unions considering a conversion to a community charter should be aware that Tennessee state law does not specifically address this issue of change. However, state-chartered credit unions do have the authority to apply for a conversion to a community charter. Authority for such is based on Tennessee Code Annotated 45-4-501(9), commonly referred to as the “wild card statute.” Since the authority is based on the premise that a state-chartered credit union has the same powers that a federal credit union does, a conversion to a community charter must follow the same guidelines that a federal credit union would if it were converting. These guidelines can be found in chapter two of the National Credit Union Administration (NCUA) Chartering and Field of Membership Manual.

The Tennessee Department of Financial Institutions policy permits a credit union to be chartered as an occupational, associational, occupational/associational or community. There can not be a mix of occupational/associational with a community charter. Each charter category is free standing by itself. An existing occupational, associational or multiple group state credit union may apply to convert to a community charter. In most cases, groups currently in the credit union’s field of membership but outside the new community credit union’s boundaries may not be included in the new community charter.

The Department’s guidance for the definition of community common bond is found in state law. State law requires that a credit union charter based on a tie to a specific geographic location be limited to a “well-defined neighborhood, community or rural district.” The Department recognizes three types of affinity on which a community common

bond can be based – people who live in, people who worship in and people who work or attend school in the community. Businesses and other legal entities within the community boundaries may also qualify for membership.

Tennessee state-chartered credit unions may also include in their fields of membership communities satisfying the definition of underserved areas in the Federal Credit Union Act. Adding an underserved area will not change the charter type. An underserved area is defined as a local community, neighborhood or rural district that is an “investment area” as defined in Section 103(16) of the Community Development Banking and Financial Institutions Act of 1994.

The following credit unions have converted to community charters or have added underserved areas to their field of membership during the past three years:

*(continued on page 6)*

## DEPARTMENTAL WELCOME

Doreen Abbott began serving as Assistant Commissioner for the Department’s Credit Union Division on April 1. She is responsible for managing the Division’s operations and overseeing the examinations of each state-chartered credit union, which determine the safety and soundness of the institutions and its compliance with governing laws and regulations.

**Note:** An in-depth interview with Abbott will be featured in the next issue of *Currencies*.



## BANK APPLICATION REPORTS

Name & Location		Nature of Change	Date Effective/Approved
JANUARY '05	DTC Holdings, Inc. Memphis, Tennessee	Acquisition of Diversified Trust Company, Memphis, Tennessee and its subsidiary DTC, Inc.	Effective: 1/1/05 Approved: 12/30/04
	FSB Bancshares, Inc. Henderson, Tennessee	Acquired Friendship Bancshares, Inc. Friendship, Tennessee via merger and changed name to Clayton Bancorp, Inc.	Effective: 1/7/05 Approved: 12/23/04
	Friendship Bank Friendship, Tennessee	Merge with and into First State Bank, Henderson, Tennessee under the title of First State Bank	Effective: 1/7/05 Approved: 1/4/05
	First State Bank Henderson, Tennessee	Charter Amendment to Correct Address. New Address: 5745 East Main Street, Erin, Tennessee 37061	Effective: 1/7/05 Approved: 1/5/05
	Citizens Bank Elizabethton, Tennessee	Charter Amendment to Effect Reverse Stock Split	Effective: 1/20/05 Approved: 1/12/05
FEBRUARY '05	Renasant Bank Germantown, Tennessee	Name Change to Renasant Bank of Tennessee	Effective: 2/1/05 Approved: 1/14/05
	Central Bank Savannah, Tennessee	Establish New Branch Facility: Highway 57 South, Counce, Tennessee	Effective: 2/14/05 Approved: 3/1/04
	Bank of Tennessee Kingsport, Tennessee	Relocate Branch Facility from 308 8th Street to 1223 Volunteer Parkway, both locations in Bristol, Tennessee	Effective: 2/22/05 Approved: 11/12/03

## COMMUNITY CHARTER CONVERSIONS *continued from page 5*

- Maury Educators Community Credit Union (formerly Maury Educators Credit Union), Columbia
- Consumer Credit Union, Greenville
- Kingsport Press Credit Union, Kingsport
- Columbia Regional Credit Union, Columbia
- Employees Resources Credit Union, Lawrenceburg
- Northeast Community Credit Union, Elizabethton
- First Choice Community Credit Union (formerly Fulton Credit Union), Knoxville
- Lowland Credit Union, Morristown
- Knoxville TVA Employees Credit Union, Knoxville
- Dyersburg Credit Union, Dyersburg
- First South Credit Union, Bartlett
- Knoxville Post Office Credit Union, Knoxville
- New South Credit Union, Knoxville
- U.S. Community Credit Union (formerly U.S. Courthouse Credit Union), Nashville
- Lakeside Employees Credit Union, New Johnsonville

## UNDERSERVED AREAS ADDED

- Eastman Credit Union, Kingsport
- American Savings Credit Union, Memphis
- Leaders Credit Union, Jackson
- Memphis Area Teachers' Credit Union, Memphis

For more information regarding community conversions, contact Paul Foster, Credit Union Safety and Soundness Manager at (615) 741-5608 or e-mail him at [Paul.Foster@state.tn.us](mailto:Paul.Foster@state.tn.us).

## BANK APPLICATION REPORTS

Name & Location	Nature of Change	Date Effective/Approved
American Security Bank & Trust Company Hendersonville, Tennessee	Amendment to the Charter to redesignate main office to: 101 Springhouse Court, Hendersonville, Tennessee 37075	Effective: 3/7/05 Approved: 3/1/05
BankTennessee Collierville, Tennessee	Amendment to the Charter to change the authorized amount of common stock	Effective: 3/7/05 Approved: 3/3/05
First State Bank Union City, Tennessee	Drive, Jackson, Tennessee, using operational name "Bank of Madison County, a branch of First State Bank" New Branch Open at 122 Carriage House	Effective: 3/10/05 Approved: 3/7/05
Greenfield Banking Company Greenfield, Tennessee	New Branch Open at 3048 N. Meridian Street Greenfield, Tennessee	Effective: 3/1/05 Approved: 9/30/04
BankTennessee Collierville, Tennessee	Change of Bank Control Filed by Joel Porter and Others	Effective: 3/1/05 Approved: 3/1/05
Cohutta Banking Company of Tennessee Chattanooga, Tennessee	New Bank Open at 820 Broad Street Suite 203 Chattanooga, Tennessee	Effective: 3/21/05 Approved: 10/20/04
Cohutta Banking Company of Tennessee Chattanooga, Tennessee	Mobile Branch Opening Serving Chattanooga Area	Effective: 3/21/05 Approved: 10/20/04
Synovus Financial Corp. Columbus, Georgia	Acquire Cohutta Banking Company of Tennessee Chattanooga, Tennessee	Effective: 3/21/05 Approved: 10/28/04
InSouth Bank Brownsville, Tennessee	Close Branch Facility: 5380 Hickory Hollow Parkway Antioch, Tennessee	Effective: 3/31/05 Approved: N/A
Renasant Bank of Tennessee Germantown, Tennessee	Merge with and into Renasant Bank, Tupelo, Mississippi under the title of Renasant Bank	Effective: 3/31/05 Approved: N/A
Community Bank of Smith County Carthage, Tennessee	Merge with and into Wilson Bank and Trust, Lebanon, Tennessee	Effective: 3/31/05 Approved: 3/10/05
DeKalb Community Bank Smithville, Tennessee	Merge with and into Wilson Bank and Trust, Lebanon, Tennessee	Effective: 3/31/05 Approved: 3/10/05
Community Bank & Trust Company of Cheatham County Ashland City, Tennessee	Charter Amendment to Change Name to: Community Bank & Trust	Effective: 3/30/05 Approved: 3/28/05
The Farmers Bank Portland, Tennessee	New Branch Open at 7836 Highway 25 Cross Plains, Tennessee	Effective: 3/14/05 Approved: 2/4/05

MARCH '05

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in Education*